

Health Professions Council
Investigating Committee 10th February 2005

Self Referrals

Executive Summary and Recommendations

Introduction

At its meeting on 11th November 2004, the Investigating Committee asked for clarification from HPCs lawyer on a number of issues relating to the self referral paper presented to that Committee before it was able to pass the paper.

The Committee sought clarification on the statement that ‘registrants must inform the Council if they are convicted of a criminal offence (other than a motoring offence).

Driving Offences other than those involving alcohol or drug misuse or resulting in death are not a matter for HPC. The minutes raised the issue of a paramedic who loses his or her license under the “totting up” procedure and is thus unable to drive. This is not a matter for the HPC.

The HPC Standards of Proficiency for paramedics do not require paramedics to possess a valid driving licence and there are many paramedics who do not need to drive in order to perform their role, such as paramedic practitioners and those working in the Armed Forces or on oil rigs

This is a matter for employers and, as that is the case, HPC has no *locus* to compel a registrant to inform his or her employer about matter which are outside HPC’s remit

The Committee also asked the executive to seek clarification about the categories of conviction that registrants should inform the HPC of.

HPC’s involvement in a registrant’s criminal conviction or caution must be on the basis that it may impair the registrant’s fitness to practise. Consequently, while there are some offences that will always be HPC’s business – sexual assault, homicide, serious drug offences – it is not possible to provide a definitive list of those offences which always need to be disclosed, as it will very much depend on the circumstances surrounding the offence.

To take a simple example, conviction for obstructing the public highway whilst participating in a demonstration against the war in Iraq is unlikely to be a matter for HPC. However, deliberate obstruction of the highway in order to prevent the emergency services from reaching the scene of a fire or road accident would be a rather different matters

A request was also made for clarification of time limits. As the Committee itself notes, it is also not possible to set a timescale after which offences need not be disclosed. HPC’s role is to protect the public and therefore it must consider relevant convictions whenever they come to light.

To take an extreme example, even if a registrant has been on the register with an unblemished record for 25 years, if an offence he or she committed 40 years earlier in another country suddenly comes to HPC's attention it would still need to consider that matter if it had a bearing on fitness to practice

The Committee also asked that the principle of double jeopardy. The common law principle known as "double jeopardy" is that, if a person is cleared for an offence, the courts cannot and will not permit that person be tried again for the same offence.

The principle extends to other forms of adjudication and, in relation to HPC, means that it would be unlawful for a registrant who was told that there was no case to answer in relation to an allegation based on a particular set of facts or circumstances to then find that he or she was facing what amounted to the same allegation for a second time.

This problem is most likely to arise at the Investigating Committee stage when a case is prematurely presented and, on the limited evidence available to it, the Panel is compelled to determine that there is no case to answer. Therefore it is important that procedures are put in place which ensures that cases are fully prepared before a Panel is asked to determine whether there is a case to answer. The Fitness to Practise team are working on these procedures and processes and a document explaining cases management will be presented to the Investigating Committee shortly.

Decision

The Committee is asked to approve the paper on self –referrals and make the attached recommendation to the Education and Training Committee

Background information

Minutes of the Investigating Committee held on 11th November 2004
Self Referrals Practice Note

Resource implications

None

Financial implications

None

Background papers

Appendices

Date of paper

31st January 2005

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